

III. Remarks

Amendments to the claims have been made to refine claim language as discussed in the October 2003 interview. As to the issues raised by the examiner, it should be understood that support does exist in the specification for the current and previous amendments. Among other locations, attention is directed to pages 11 and 19 for the particular dilution values set forth in the claim. As discussed in the interview of October 29, 2003, these amendments are made to address the inventive aspect focused upon, namely, the dilution effect upon the sperm cell viability and effectiveness. This amendment is believed to address all the questions raised in the prior action, but as discussed in the interview, if the examiner believes additional explanation is necessary, the undersigned requests that a telephone call so that affidavit(s) or further explanation can be provided in the most expeditious manner. Although previously withdrawn, claim 67 is amended. It is requested that this claim be re-instated to the application as now dependent upon independent claim 38.

Finally, for clarification and in light of recent case law, it should be understood that the amendments made herein should not be interpreted as an action that in any way surrenders a particular equivalency, surrenders any patent coverage, surrenders any right to patent coverage, or otherwise limits any rights which the applicant may now or hereafter assert. It should be understood that, unless and to the extent deemed broadened by this amendment, and even as amended, the applicant expressly reserves all rights, including but not limited to: all rights to maintain the scope of literal coverage with respect to any element as may have existed under the language previously presented, all rights to maintain the scope of equivalency coverage, and all rights to re-present the prior language at any time in this or any subsequent application. In both the initial drafting of claims and in the amendments made herein, it should also be understood that the applicant has intended to capture as full and broad a scope of coverage as legally available. To the extent that insubstantial substitutes are made, to the extent that the applicant did not in fact draft any claim so as to literally encompass any particular embodiment, and to the extent otherwise applicable, the applicant should not be understood to have in any way intended to or actually relinquished such coverage as the applicant simply may not have been able to

anticipate all eventualities; one skilled in the art, should not be reasonably expected to have drafted a claim that would have literally encompassed such alternative embodiments.

CONCLUSION

In accordance with the amendment directions provided in 37 CFR 1.121, as recently changed, please amend claims 38 and 67 and cancel claim 66. Each amendment is believed to have been made in accordance with Rule 121, however, any unintended informality exist, it is requested that the undersigned be contacted by telephone so that it may be resolved as expeditiously as possible. The Applicant respectfully requests that the Examiner reconsider the application and allow all claims at his earliest convenience.

Dated this 10 date of June 2004.

Respectfully submitted,
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